

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 917**

Introduced by Bruning, 3

Read first time January 5, 2000

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Uniform Deceptive Trade Practices Act;  
2 to amend section 87-302, Reissue Revised Statutes of  
3 Nebraska; to prohibit the business use of the name of a  
4 municipality as prescribed; and to repeal the original  
5 section.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 87-302, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   87-302.   (a) A person engages in a deceptive trade  
4 practice when, in the course of his or her business, vocation, or  
5 occupation, he or she:

6                   (1) Passes off goods or services as those of another;

7                   (2) Causes likelihood of confusion or of misunderstanding  
8 as to the source, sponsorship, approval, or certification of goods  
9 or services;

10                  (3) Causes likelihood of confusion or of misunderstanding  
11 as to affiliation, connection, or association with, or  
12 certification by, another;

13                  (4) Uses deceptive representations or designations of  
14 geographic origin in connection with goods or services;

15                  (5) Represents that goods or services have sponsorship,  
16 approval, characteristics, ingredients, uses, benefits, or  
17 quantities that they do not have or that a person has a  
18 sponsorship, approval, status, affiliation, or connection that he  
19 or she does not have;

20                  (6) Represents that goods are original or new if they are  
21 deteriorated, altered, reconditioned, reclaimed, used, or  
22 secondhand, except that sellers may repair damage to and make  
23 adjustments on or replace parts of otherwise new goods in an effort  
24 to place such goods in compliance with factory specifications;

25                  (7) Represents that goods or services are of a particular  
26 standard, quality, or grade, or that goods are of a particular  
27 style or model, if they are of another;

28                  (8) Disparages the goods, services, or business of

1 another by false or misleading representation of fact;

2 (9) Advertises goods or services with intent not to sell  
3 them as advertised;

4 (10) Advertises goods or services with intent not to  
5 supply reasonably expectable public demand, unless the  
6 advertisement discloses a limitation of quantity;

7 (11) Makes false or misleading statements of fact  
8 concerning the reasons for, existence of, or amounts of price  
9 reductions;

10 (12) Uses or promotes the use of a chain distributor  
11 scheme in connection with the solicitation of business or personal  
12 investments from members of the public; ~~or~~

13 (13) With respect to a sale or lease to a natural person  
14 of goods or services purchased or leased primarily for personal,  
15 family, household, or agricultural purposes, uses or employs any  
16 referral or chain referral sales technique, plan, arrangement, or  
17 agreement; or

18 (14) Uses, in any advertisement, an assumed or fictitious  
19 name for the conduct of such person's business that includes the  
20 name of any municipality in this state in such a manner as to  
21 suggest that such person's business is located in such municipality  
22 unless (A) such person's business is, in fact, located in such  
23 municipality or (B) the advertisement contains the street address  
24 of such person's business, including the municipality and, if  
25 located outside Nebraska, the state in which such person's business  
26 is located. This subdivision shall not apply to the use of (i) any  
27 trademark, service mark, or trade name registered under the laws of  
28 this state or under federal law, (ii) any such name that, when

1 applied to the goods or services of such person's business, is  
2 merely descriptive, of them, or (iii) any such name that is his or  
3 her surname.

4 (b) In order to prevail in an action under sections  
5 87-301 to 87-306, a complainant need not prove competition between  
6 the parties.

7 (c) This section does not affect unfair trade practices  
8 otherwise actionable at common law or under other statutes of this  
9 state.

10 Sec. 2. Original section 87-302, Reissue Revised  
11 Statutes of Nebraska, is repealed.